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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Fiftieth session

SUMMARY RECORD OF THE 18th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 14 August 1998, at 10 a.m.

Chairman: Mr. GUISSÉ

later: Mr. WEISSBRODT

CONTENTS

THE IMPLEMENTATION OF HUMAN RIGHTS WITH REGARD TO WOMEN:

(a) TRADITIONAL PRACTICES AFFECTING THE HEALTH OF WOMEN AND THE GIRL CHILD

(b) THE ROLE AND EQUAL PARTICIPATION OF WOMEN IN DEVELOPMENT (continued)

HUMAN RIGHTS OF INDIGENOUS PEOPLES

(a) INDIGENOUS PEOPLES AND THEIR RELATIONSHIP TO LAND

CONTEMPORARY FORMS OF SLAVERY

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The meeting was called to order at 10.10 a.m.

THE IMPLEMENTATION OF HUMAN RIGHTS WITH REGARD TO WOMEN:

(a) TRADITIONAL PRACTICES AFFECTING THE HEALTH OF WOMEN AND THE GIRL CHILD

(b) THE ROLE AND EQUAL PARTICIPATION OF WOMEN IN DEVELOPMENT (agenda item 5) (continued) (E/CN.4/Sub.2/1998/11, A/52/38/Rev.1, E/1998/27-E/CN.6/1998/12)

1. Mrs. BELLAMY (International Confederation of Free Trade Unions - ICFTU) said that the globalization of the economy and the deregulation of the labour market had resulted in a deterioration of women's working conditions, an increase in the inequalities to which they were subject, particularly in regard to wages, and the development of such employment formulas as casual, part-time, temporary and home work.

2. Many women, particularly in developing countries, were not protected by adequate labour legislation and did not have minimum social coverage, particularly when they were "employed" in the informal sector, and in EPZ estates where they were particularly vulnerable to discrimination, violation of their human and trade union rights or sexual violence. A campaign should be launched against the employment of girls by setting a minimum age of admission to employment and by offering them the possibility of education.

3. Lastly, ICFTU called for compliance with ILO Conventions which sought to protect women at work, particularly Convention No. 111 on discrimination (employment and occupation) and Convention No. 100 on equal remuneration between men and women.

4. Mrs. GIRMA (African Association of Education for Development) said that throughout history men had dominated the world, a world of intolerance, hate, wars and massacres. It was therefore necessary in the best interests of humanity to explore the qualities that women had acquired during the course of their history of suffering and submission, such as a love of harmony, humility, modesty, patience and pragmatism. Such were the qualities required to settle disputes.

5. Indeed, equal participation with men in political, economic, social and cultural life did not imply imitating them. Women should demonstrate creativity and, more particularly, show that they could succeed without riding roughshod over others.

6. An intensive educational campaign should be launched against the crime of rape, whether committed by members of the armed forces or by other individuals. The crux of the problem lay in the fact that the act was not seen as vile because it was equated with a particular image of male performance. Unfortunately, the subject invited laughter and derision.

7. Lastly, she commended the courage of Algerian women in their endeavours to achieve peace and tolerance. She urged the Sub-Commission to give

Mrs. Warzazi more resources by allowing her to work with the Activities and Programmes Branch of the Office of the High Commissioner for Human Rights.

8. Mr. IDRIS (Observer for Sudan) said that women in Sudan had enjoyed full political and civil rights since 1964. For example, the Public Service Act stipulated that selection for public office should be based on merit and competence; it also embodied the principle of equal pay for equal work. Under the new Constitution, children born to Sudanese mothers automatically acquired that nationality. Mothers were entitled to eight weeks' maternity leave and reduced working hours for two years, without loss of pay, to permit them to breastfeed their infants. Sudanese women currently occupied positions of responsibility in all spheres, such as members of Parliament, supreme court judges, doctors, diplomats and university professors. The number of women in higher education was over 50 per cent in all specialized fields.

9. However, much remained to be done. For example, there were still few women in senior civil service posts and women accounted for only 27 per cent of the workforce. In addition, 44 per cent of women were illiterate, as compared to 25 per cent of men. In regard to health, the establishment of vaccination and health centres for women, including family planning services, had substantially reduced the maternal death rate. Nonetheless, due to a lack of financial and human resources, only 30 per cent of women received post-natal care; the Government was actively seeking assistance from the United Nations and from NGOs to improve that situation.

10. The Government and civil society were jointly combating customs and traditions that were harmful to women's health, and in particular genital mutilation which had been made a criminal offence. He applauded the work of the Special Rapporteur, Mrs. Warzazi, in combating traditional practices that were harmful to the health of women and girls. In future, the Government would furnish more extensive information on the action it had taken to eradicate such practices.

11. Mr. HUSSEIN (Observer for Iraq) said that the Shariah gave men and women equal rights and that the Constitution embodied the equality of all before the law. Indeed, women occupied prominent positions in all spheres of political, economic and cultural life. Iran had ratified the Convention on the Elimination of All Forms of Discrimination against Women and was preparing its second periodic report for submission to the Committee on the Elimination of Discrimination against Women.

12. The embargo to which Iraq had been subject for the past eight years had had serious effects on the health of the population, and particularly on that of women and children. Despite the Government's efforts, a large number of children were dying of malnutrition. The Iraqi Government warmly welcomed the Sub-Commission's request that the embargo should be lifted and that Iraq's population should be permitted to enjoy their human rights in accordance with the Universal Declaration of Human Rights.

13. Mrs. PEREZ DUARTE (Observer for Mexico) said that the Mexican Government was endeavouring to reduce gender inequality and was collaborating closely with civil society, non-governmental organizations (NGOs) and international

mechanisms in pursuing a policy to promote the active participation of women on an equal footing with men in Mexico's political, social and economic life.

14. It had introduced a series of concrete measures to assist poor and marginalized women by providing them with access to credit or the right to ownership or usufruct of land, in the context of the national programme for women introduced in 1996, the implementation of which was controlled by women themselves and by society as a whole.

15. The Mexican Government condemned all forms of violence against women, whether by individuals or by agents of the State, and the Federal Government had launched a programme, in collaboration with State Governments, to prevent and eliminate all forms of violence against women. Moreover, machinery had been created to provide rape victims with medical, legal and psychological support. Judges with special training also dealt with crimes of that nature. It was essential that women should be encouraged to overcome their fear and report cases of rape, so that those responsible could be brought to trial and punished, thereby putting an end to impunity for such crimes.

16. Mr. KHERDAM (Observer for Iran) said that violence against women was far from eliminated and was due in particular to an absence of support for the family, declining moral values and the absence of appropriate regulatory, administrative and legislative provisions which would make an effective contribution to the emancipation of women. In that connection, the role played by the United Nations Development Fund for Women (UNIFEM) and the establishment of a Trust Fund in Support of Action to Eliminate Violence against Women were to be commended. The plight of women and children in Afghanistan, in particular, had reached such alarming proportions that the international community should urgently take steps to remedy the situation.

17. A number of measures to combat violence against women were planned, under the national plan of action to implement the results of the Fourth World Conference on Women, including information campaigns on the rights of women, inquiries into the causes of violence against women, the assessment of the effectiveness of preventive measures and the enactment and enforcement of laws intended to eradicate violence against women.

18. The Iranian Government emphasized the importance of the role that might be played by international cooperation in combating such inhuman and degrading treatment as the trafficking in women for purposes of sexual exploitation. Iran also welcomed the collective contributions to the drafting of a convention on the elimination of all forms of sexual exploitation of women and of standard minimum rules for the treatment of victims of trafficking in persons, forced labour and slavery-like practices. The Working Group on Contemporary Forms of Slavery should be congratulated on its efforts to eliminate the sexual exploitation of women.

19. Mr. CHOWDHURY (Observer for Bangladesh) said that much remained to be done, particularly in developing countries, before equality was achieved between men and women, particularly in the areas of education, health, employment and wages.

20. In Bangladesh, the Ministry of Women's Affairs was responsible for coordinating policies and programmes to reduce such inequalities and to rescue women from exclusion. Non-governmental organizations participated in that task. Mention might be made in that connection of the system for granting microcredit to women, particularly in rural areas. In addition, education for girl children had been made free up to grade VIII in order to encourage female literacy. Specific measures had been introduced to increase women's participation in both the public and private sectors. A number of positions were reserved for women in the civil service; day-care centres had been set up so that women with children could work. A specific number of seats in Parliament were reserved for women, and he noted that both the Prime Minister and the leader of the opposition were women. Legislative measures had also been introduced to guarantee the rights of women and to protect them from various forms of violence, and a special commission had been set up to identify any gender bias against women in legislation.

21. Bangladesh was cooperating with other countries in the South Asia region in combating various forms of violence against women, including trafficking, rape and kidnapping. A regional convention to combat the crime of trafficking in women and children was under preparation.

22. However, the economic obstacles encountered by developing countries, particularly the least developed, were hampering efforts to promote the rights of women. For that reason, the international community and the United Nations system should help such countries to achieve economic development and effectively to eradicate all forms of discrimination against women.

HUMAN RIGHTS OF INDIGENOUS PEOPLES

(a) INDIGENOUS PEOPLES AND THEIR RELATIONSHIP TO LAND (agenda item 7) (E/CN.4/Sub.2/1998/15, 16 and 17 and Add.1)

23. Mrs. DAES (Chairperson-Rapporteur of the Working Group on Indigenous Populations), introducing the report of the Working Group on Indigenous Populations on its sixteenth session, which had been held in Geneva from 27 to 31 July 1998 (E/CN.4/Sub.2/1998/16), said that once again the Working Group had been a forum for reconciliation and constructive dialogue between Governments and indigenous peoples. It continued to provide an opportunity for indigenous peoples to express their concerns and for Governments to present information on their efforts to bring about peaceful and constructive change. Almost 1,000 people had attended the Working Group, including representatives of States, of intergovernmental and non-governmental organizations and of indigenous organizations and peoples. As at previous sessions, discussions had been devoted primarily to recent developments affecting indigenous peoples. The Working Group had been gratified to hear of positive developments in relations between particular Governments and indigenous peoples.

24. For the first time, the Working Group had chosen to focus on the theme of "indigenous peoples, education and language", to which a number of meetings had been devoted, and a large number of education and language specialists, as well as indigenous educators and teachers working with indigenous communities and peoples working with their local communities to revive their languages had

expressed their views on the subject. The discussions had revealed the need to ensure that indigenous peoples had better access to all forms and levels of education, that public education systems were sensitive to the needs of indigenous peoples and that they appropriately reflected their cultures and histories and were equipped to assist those peoples in protecting the use of their languages. A number of States that wished to respond to the aspirations of their indigenous peoples in the area of education were seeking to ensure that indigenous peoples had control over the education they received. The Working Group had benefited greatly from the contributions of specialized agencies, and in particular UNESCO, on that issue.

25. Participants had also discussed other important issues such as the health of indigenous peoples and the introduction of standards relating to indigenous peoples within the United Nations system, including progress in preparing a draft declaration on the rights of indigenous peoples. Informal consultations had taken place between a number of participants in the Working Group and representatives of private sector mining and energy enterprises; such contacts contributed to fostering a climate of confidence in relations between indigenous groups and the private sector.

26. The Working Group had also considered the final report on the Study on treaties, agreements and other constructive arrangements between States and indigenous populations, drawn up by Mr. Alfonso Martínez (E/CN.4/Sub.2/1998/17 and Add.1), the establishment of a permanent forum for indigenous peoples within the United Nations system, the celebration of the International Decade of the World's Indigenous People and, in particular, the progress that had been made in implementing the programme of activities for the Decade at the domestic level. The International Day of Indigenous People had been celebrated on the last day of the Working Group's session, and participants had thus been able to attend the cultural events staged by indigenous groups from all over the world.

27. Following consultations between the Office of the High Commissioner for Human Rights, the Chairperson-Rapporteur of the Working Group on Indigenous Populations and the secretariat, UNESCO had been invited to host the following year's session of the Working Group in Paris. Since the Director-General of UNESCO, Mr. Federico Mayor, had responded positively to the proposal, members of the Working Group had discussed the practical aspects of the question. The move to Paris would apply only to the seventeenth session, since United Nations work on indigenous populations would remain centred in the United Nations Office at Geneva and consequently the links which connected many indigenous people with Geneva and with Switzerland would not be severed. The Working Group intended to assemble further information and to consult the indigenous peoples before a final decision was taken. She invited the members of the Sub-Commission to present their views on the matter. She was inclined to view the possibility favourably since it would provide an opportunity to focus on indigenous problems in the areas of education, science and culture and would generate wider public interest in matters relating to indigenous peoples. It would also enhance the coordinating role of the Office of the High Commissioner for Human Rights in promoting the objectives of the Decade and would offer concrete benefits to Governments and indigenous peoples alike.

28. Lastly, she raised the issue of the inadequate support that the Sub-Commission received from the secretariat in its work with indigenous populations. Indeed, while the team of secretariat staff responsible for those matters had been reduced by two as a result of restructuring, its workload had increased with the establishment of a special working group on the creation of a permanent forum for indigenous peoples, pursuant to Commission resolution 1998/20, and the implementation of the programme of activities for the International Decade of the World's Indigenous People. The Working Group on Indigenous Populations needed highly-qualified staff if it was to fulfil its mandate.

29. Introducing the progress report on the working paper on indigenous people and their relationship to land (E/CN.4/Sub.2/1998/15), which she had prepared pursuant to Commission decision 1997/114 with a view to suggesting practical measures to address problems in that sphere, she referred to the preliminary working paper (E/CN.4/Sub.2/1997/17 and Corr.1) she had submitted to the Sub-Commission at its forty-ninth session. Its purpose had been to promote understanding between indigenous peoples and States concerning land issues, to provide information and analyses that could contribute to the just resolution of such issues, and to enhance understanding of the provisions relevant to land rights contained in the draft United Nations declaration on the rights of indigenous peoples (E/CN.4/Sub.2/1994/2/Add.1). Special attention had been devoted to identifying and examining practical measures to address serious ongoing problems. The working paper had been transmitted by the Secretary-General to Governments, indigenous peoples and intergovernmental and non-governmental organizations for their comments and suggestions. Only four States, namely, Australia, Canada, Denmark, and New Zealand had as yet responded, providing very helpful information, analyses and constructive criticism. Eleven indigenous peoples' organizations or organizations associated with indigenous people had also replied, some submitting extensive and useful information.

30. Certain significant developments that had occurred since the preliminary working paper had been drafted would be included in the final working paper, and in particular the decision of the Supreme Court of Canada in Delgamuukw v. the Queen, the issue of the extinguishment of indigenous land rights in Australia, the consideration by the Waitangi Tribunal of Maori land claims, together with specific and factual information about land issues in various parts of the world and the settlement of land disputes provided by indigenous organizations and the Inter-American Commission on Human Rights respectively.

31. The scope and complexity of the subject, and the limited number of replies received meant that it had not yet been possible to prepare the final working paper; it would, however, be submitted to the Working Group on Indigenous Populations at its seventeenth session and to the Sub-Commission at its fifty-first session. Paragraph 18 of the progress report under consideration listed some possible issues for preliminary analysis. She invited members of the Sub-Commission, Governments, indigenous organizations, United Nations organs and bodies and NGOs to contribute to the fulfilment of the task entrusted to her by suggesting additional issues.

32. Mr. YOKOTA said that Mrs. Daes' progress report, which provided an overview of the progress made on the important and sensitive matter of indigenous peoples and their relationship to land, summarized in a highly professional and objective manner the few replies received from Governments and indigenous organizations. Reporting on recent developments in that sphere in Japan, he said that in 1997, following long and arduous discussions and negotiations, the Diet had eventually adopted new legislation for the Ainu people, replacing the existing Act that had been promulgated a century previously. The new Act contained a number of provisions for the fair and equal treatment of the Ainu people who had long suffered discrimination, poverty and the effects of the assimilation policy. In March 1997, in the Nibutani case, the Sapporo District Court of Hokkaido had recognized the indigenous character of the Ainu people and had emphasized the need to promote and protect their distinct cultural heritage which had been neglected for so long. Such developments were not widely known because both the new Ainu law and the Nibutani judgement were available only in Japanese; he would, however, endeavour to have them translated into English so that Mrs. Daes could cover them in her final working paper, which he looked forward to reading in 1999.

33. Mr. EIDE emphasized the importance of indigenous land rights in an area in which rapid developments were taking place in many countries, such as Australia. ILO Convention No. 169, which had been ratified by a number of countries, including Norway, would no doubt play an important role in that area. The study that had been made in Norway on the land rights of the Sami certainly owed a lot to the Convention and to the Sub-Commission's work.

34. Mr. KARTASHKIN endorsed the interesting and constructive conclusions and recommendations submitted by Mrs. Daes in her progress report on indigenous peoples and their relationship to land and said that the quest for solutions to problems in that area would certainly be facilitated by constructive dialogue between Governments and indigenous peoples. It was important that Mrs. Daes should continue her work on the subject and that she should consider the best ways in which land issues might be settled in a fair and just manner.

35. The matters raised in the report had a direct bearing on the Russian Federation which had over 30 indigenous peoples in the north, in the Far East and in Siberia. In March 1998, the committee which had been established by the Russian Federation, and of which he was a member, had, together with a number of NGOs, organized a conference on human rights and indigenous peoples in the context of national policy. The conference had ascertained that, while regulations existed at the regional level, there was no federal law relating to indigenous peoples, and had requested Parliament to promote the adoption of relevant legislation. It had further requested that someone should be appointed to assume responsibility for matters relating to indigenous peoples to ensure that they were appropriately represented in the Federal Parliament and in regional parliaments. The Working Group on Indigenous Populations should study the question of the ratification of ILO Convention No. 169 and the problems encountered by States in that connection. The Russian Parliament had considered the ratification of the Convention but had not yet taken a final decision in the matter.

CONTEMPORARY FORMS OF SLAVERY (agenda item 6) (E/CN.4/Sub.2/1998/12 to 14 and E/CN.4/Sub.2/1998/CRP.1)

36. Mr. Weissbrodt (Vice-Chairman) took the Chair.

37. Mrs. McDOUGALL, introducing her final report on systematic rape, sexual slavery and slavery-like practices during armed conflict (E/CN.4/Sub.2/1998/13), said that, reinforcing the conclusions of her report, the Rome Statute of the International Criminal Court, specifically recognized that sexual violence and sexual slavery committed in the context of either an internal or an international armed conflict might constitute crimes against humanity and war crimes falling within the jurisdiction of the future court. It would be important for the Sub-Commission to follow the work of the court, once it had been established in The Hague, in connection in particular with the issue of gender crimes and sexual violence, during the future meetings of the Assembly of States Parties which was to endeavour to establish in more precise terms the exact nature of the crimes that would fall within the court's jurisdiction.

38. The report exposed the paradox that while sexual violence had occurred in virtually every armed conflict, and while the international framework for prosecuting crimes of sexual violence had long existed, very few prosecutions for acts of sexual violence committed in armed conflict had actually taken place. The international community had not cared enough about those crimes to take effective steps to prosecute them. After defining core crimes, the report discussed the applicable provisions of international law for prosecuting cases of sexual violence, noting that many cases of sexual violence that occurred during armed conflict might most appropriately be characterized as slavery. With respect to war crimes, the report examined the issues raised by the fact that the majority of the world's contemporary armed conflicts were civil conflicts rather than international wars.

39. Since the beginning of the century, the international community had recognized that, even in conflictual situations that were not covered by humanitarian treaty provisions, both combatants and civilians "remained under the protection and the rule of the principles of the law of nations". In particular, common article 3 of the Geneva Conventions of 1949, which were part of customary international law, set out the protections that all parties to a conflict must respect, including all parties to internal conflicts that were not otherwise covered by the Geneva Conventions. The provisions of common article 3 were important in that they governed the behaviour of both State and non-State actors in civil conflicts. The new Statute of the International Criminal Court also recognized the importance of prosecuting acts of sexual violence committed during civil wars.

40. The report further emphasized that a broad range of actors often contributed to the commission of international crimes during armed conflict situations and that the condemnation of responsible parties at all levels was essential for the prevention of such crimes. The most obvious category of responsibility for international crimes attached to those who personally committed acts of sexual violence which constituted slavery, crimes against humanity, genocide, war crimes or torture. In addition, under the legal doctrine of command responsibility, military commanders, superiors and other

political or civil authorities were responsible for the crimes committed by their subordinates. Persons who instigated or incited the commission of egregious international crimes belonged to another category of legal responsibility. Finally, there were those persons who were complicitous in international crimes by carrying out certain acts or functions in the bureaucracy or political process. Such offenders were often civilians who were frequently outside any given chain of command. Their functions might be quite compartmentalized and their actual knowledge of wrongdoing might be incomplete, and consequently it would be most appropriate to hold such functionaries to a standard of reasonable inquiry.

41. In conclusion, the report noted that to end the cycle of impunity that currently existed for acts of sexual violence and sexual slavery during war required political will as well as concerted action on the part of all, and that improvement of the effectiveness of the existing legal framework was a critical component of any such action. The report advanced a number of recommendations to that end.

42. Appended to the report was an analysis of the legal responsibility of the Japanese Government regarding the "comfort stations" established during the Second World War; the conclusion was reached that the Japanese Government have a legal responsibility for the abuses committed and had an obligation to prosecute those who had taken part in the rapes and to pay compensation to the victims. Despite the public apologies offered by the Japanese Government, it continued to deny legal liability for the establishment and management of the camps. The United Nations High Commissioner for Human Rights should work to bring about the prosecution, in Japan and elsewhere, of those responsible for the atrocities that had clearly been linked to the establishment by the Japanese army of rape camps. It was incumbent upon the United Nations to ensure that Japan fully satisfied its obligation to seek out and prosecute all those responsible for the "comfort stations" who remained alive and that other States similarly should do all they could to assist in the capture and prosecution of offenders in other jurisdictions. The Asian Women's Fund, which had been established in 1995, did not satisfy the responsibility of the Government of Japan to provide official legal compensation to those women who had been victims of the "comfort women" tragedy, since the money collected for the Fund was not intended to acknowledge the Japanese Government's legal responsibility.

43. Lastly, the international community had waited too long to become involved in the conflicts in Rwanda and in the former Yugoslavia, despite reports of massive violations against the life and liberty of men and women. It must respond more quickly to early warnings of situations of armed conflict, and humanitarian, diplomatic and preventive action must incorporate measures to combat sexual or gender-based violence. Without full equality and full participation of women in the economic, social and cultural life of their societies, any steps taken to prevent systematic rape or sexual slavery during armed conflict or to rebuild societies recovering from such conflicts would ultimately fail.

44. Mr. YIMER welcomed the very painstaking and comprehensive report which had been submitted and which constituted an extremely important study from the point of view both of the fundamental rights of women and of the development

of international law. It included a number of points which deserved particular attention, including the statement in paragraph 8 that practices involving the treatment of women as chattels were both in fact and in law forms of slavery and, as such, violations of the peremptory norm prohibiting slavery. Paragraph 34 contained another important point to the effect that the legal framework for prosecuting sexual slavery and sexual violence had evolved from at least three different sources of law, including human rights, humanitarian and international criminal law, each with different customary and treaty-based origins and historical precedents. Paragraph 36 went on to note that sexual slavery and sexual violence when committed during armed conflict might be characterized under certain conditions as customary violations of jus cogens norms. He was of the opinion that such acts should be characterized as violations of that nature. Another extremely important passage (para. 37) stated that slavery, crimes against humanity, genocide, certain war crimes and torture were subject under customary international law to universal jurisdiction; if that were not the case, law would be ineffectual.

45. In regard to individual responsibility, he noted that a broad range of actors had contributed to the commission of international crimes during armed conflict (para. 74). In the current context, he welcomed the fact that legal responsibility applied to persons who instigated or incited the commission of international crimes, particularly persons who created the political or social climate which made the commission of such crimes possible (para. 81). Another important development was the questioning of the degree of responsibility of individuals who were complicitous in international crimes by carrying out certain acts or functions in the bureaucracy or political process (para. 83). Equally important was the fact of recognizing that international crimes committed during armed conflict were often the result of an orchestrated policy of the State apparatus (para. 84).

46. The report rightly emphasized the existing inadequacies of law and of internal procedure, which was a major problem that should be remedied. Paragraph 98 contained the important recommendation that the Statute of the International Criminal Court should be interpreted as requiring that the crimes in question should be prosecuted at the international level under the Court's jurisdiction whenever a State which had jurisdiction over the crimes in question was unwilling or unable to carry out an investigation or prosecution.

47. All the recommendations contained in the report were useful and should be adopted. He emphasized, specifically, those regarding the removal of gender bias in municipal law and procedure, the adequate protection for victims and witnesses, the appropriate support services for victims, the matter of the permanent International Criminal Court and documentation with a view to eventual prosecution (paras. 103-107). Lastly, he drew attention to paragraph 115 which emphasized that armed conflict exacerbated the discrimination and violence directed at women everywhere, every day.

48. Mr. SIK YUEN noted that the report had been submitted at a most opportune time when rape was being systematically and perniciously used as a tool of war and of intimidation, and was on occasion tolerated or encouraged by agents of the State. However, a new attitude was developing which

considered sexual violence committed during armed conflicts to be a serious international crime. The report strongly condemned the treatment of "comfort women" during the Second World War and new prospects had been opened up by the indictment of crimes based on sexual violence by the two ad hoc international tribunals for the former Yugoslavia and for Rwanda. The forthcoming establishment of an international criminal court was also to be welcomed. Acts of sexual violence committed during armed conflicts were regarded as crimes against humanity and violations of jus cogens norms, and States, including successor Governments, had a duty to ensure that the perpetrators of such crimes were brought to trial. The ultimate message of the report was a cry from the heart that justice should be done, that dignity should be repaired and that such violations should never happen again. The would-be perpetrators of crimes against humanity knew that, in future, they would be punished for their crimes.

49. Mrs. WARZAZI (Chairperson-Rapporteur of the Working Group on Contemporary Forms of Slavery), introducing the report of the Working Group on Contemporary Forms of Slavery on its twenty-third session (E/CN.4/Sub.2/1998/14), said that the task of the Working Group was to identify the different contemporary forms of slavery and to facilitate the establishment of dialogue between those who defended the victims of such violations and politicians who were not always fully aware of the problem. She emphasized that the participation of United Nations specialized agencies, bodies and organizations in the Group's work was essential, and regretted that the scheduling of meetings had meant that several of them had been unable to take part in the Group's session; she asked the Office of the High Commissioner to look into the problem.

50. Nonetheless, the importance and value of the contributions of NGOs which had taken part in the session to some extent compensated for the absence of the specialized institutions. Their information and often moving testimony had certainly been extremely useful. Two NGOs in particular had submitted studies on two important topics to the Group. The International Movement Against All Forms of Discrimination and Racism (IMADR) had prepared a working document on the need to strengthen the international system to eliminate the traffic in persons and the exploitation of the prostitution of others (paras. 17 to 20). The Working Group had considered the study to be so useful that it had asked the secretariat to make a summary to be appended to the Group's other official working documents. IMADR had also submitted to the Working Group a draft reference manual on trafficking in women in Asia, containing information and recommendations for government officials and citizens trying to put an end to such trafficking. Anti-Slavery International had provided the Group with information on the many violations of which child domestic workers were victims and on the various measures that had been adopted to improve their lives (section IV A).

51. The previous year, the Working Group had decided to give priority attention during its twenty-third session to the matter of economic exploitation, in connection with which ILO had made a valuable contribution. With regard to the sexual exploitation of children, the Special Rapporteur on the sale of children, child prostitution and child pornography, Mrs. Calcetas-Santos, had participated for the first time in a session of the Working Group. She had undertaken to provide information, in her next report,

on the relationship between employment and prostitution and had emphasized that, to an increasing extent, child prostitution involved boys (paras. 68 to 70). In connection with the more general issue of trafficking in persons and the various aspects of the exploitation of prostitution, NGOs had decided, in response to a suggestion by the Working Group, to organize a seminar on the subject in 1999 prior to the Working Group's session without financial support from the United Nations. For that reason, she thought the NGOs involved might be interested in the new Act that had been adopted by Sweden, penalizing persons who had resort to paid prostitution. She requested the Office of the High Commissioner for Human Rights to make a suitable room available for the seminar.

52. The Working Group had also reviewed the implementation of conventions dealing with slavery, based in particular on the working document drawn up at its request by the International Movement Against All Forms of Discrimination and Racism (IMADR). The Working Group had concluded that no effective international mechanisms existed to combat contemporary forms of slavery, and had therefore asked Mr. Weissbrodt and Anti-Slavery International, in consultation with the NGOs involved, to draw up a detailed study of existing treaty and customary law relating to all traditional and contemporary slavery-like practices, and of the relevant monitoring mechanisms. In addition, it had requested the Office of the High Commissioner for Human Rights to submit to the Group at its twenty-fourth session, a compilation of recent information on trafficking in women and children, together with measures that might be taken in that sphere at the national and international levels. She welcomed the joint meeting that had been held with members of the Committee on the Rights of the Child, at which views had been exchanged on the respective terms of reference and shared objectives of the two bodies, and on cooperation and exchanges of information between them.

53. Referring to the recommendations adopted by the Working Group (para. 97), she said that it had concentrated mainly on the worrying problem of corruption and its role in the continuation of slavery-like practices, and on the abusive use of the Internet for purposes of sexual exploitation. Indeed, given that 100,000 children were sold each year through the Internet, the freedom of information argument ceased to be valid. In response to such horrifying situations, Germany, which intended to recommend the adoption at the European level of an international convention against child pornography on the Internet, as well as Switzerland, had already reacted to that new development, the dangers of which had rightly been emphasized by Mr. Maxim.

54. Lastly, she appealed once more to all countries to make appropriate contributions to the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery. She thanked all those whose participation in the deliberations of the Working Group had served to advance the cause of human rights a little further.

55. Mr. GUISSÉ resumed the Chair.

56. Mrs. GANDHI (Indian Council of Education) said that, unfortunately, in South Asia, various forms of child exploitation were being exacerbated by poverty and unemployment. Only recently had Indian children been sent to Saudi Arabia to beg. It was apparent therefore that the principles embodied

in the Declaration of the Rights of the Child and in the Convention on the Rights of the Child, and the commitments that had been entered into at the 1990 World Summit for Children and subsequently at the 1995 World Summit for Social Development remained largely unrealized. While it was true that the struggle against child exploitation could only be won through economic development, education and, possibly, the adoption of a protocol, nonetheless, the exemplary punishment of those responsible was also essential if such abuses were really to be extirpated.

57. With the assistance of NGOs and relevant international bodies, the Indian Government was committed to implementing the provisions of the Convention on the Rights of the Child, particularly through awareness-raising and information. Meanwhile, NGOs were active in all spheres (education, health, justice, nutrition) involving the rights of the child. The Indian Council of Education therefore urged all developing countries to entrust NGOs with the responsibility of implementing the Convention on the Rights of the Child in order to associate more and more people with that task.

58. Mr. WIEBALCK (Christian Solidarity International - CSI) said that he had ascertained during his visits to Sudan, accompanied by independent journalists, that the scourge of slavery continued unabated in that country, as had been confirmed by the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Sudan, Mr. Biro, in his latest report (E/CN.4/1998/66). During recent offensives by members of the National Islamic Front (NIF), further thousands of women and children had been abducted, some of them in close proximity to distribution points of the World Food Programme (WFP). Since the Sub-Commission's last session, CSI had, under its slave redemption programme initiated in 1995, purchased the freedom of 1,932 individuals who had been enslaved in Sudan, some of whom had been subjected to all manner of ill-treatment. It intended to continue its activities, which had been well received by the Arab and African populations of the regions involved, and refused to be intimidated by the Sudanese Government's accusations that its activities defamed Islam.

59. CSI, which would submit a list of 103 names of women and children currently enslaved in Sudan to the High Commissioner for Human Rights, drew attention to the fact that article II (e), of the Convention on the Prevention and Punishment of the Crime of Genocide provided that "forcibly transferring children of one group to another group" covered child slavery and was punishable under articles III and IV of the Convention. CSI had been unable to participate in the twenty-third session of the Working Group on Contemporary Forms of Slavery and was therefore all the more disappointed to find no mention of slavery and the slave trade in Sudan in the Group's report, despite the recent conclusions of the Commission's Special Rapporteur on the human rights situation in Sudan.

60. The international community could not sit idly by in the presence of such a scourge. The High Commissioner for Human Rights, the Sub-Commission and its Working Group on Contemporary Forms of Slavery should insist on access for human rights monitors to all areas in the Sudan, set up a system to locate young people who had been enslaved in Sudan and return them to their families in the south, and support Arab clans which cooperated with the African communities of the south in returning the victims of slavery to their homes.

61. Mr. KIM Hong Bom (International Association of Democratic Lawyers - IADL) said that Mrs. McDougall, Special Rapporteur on systematic rape, sexual slavery and slavery-like practices during armed conflict, had submitted an extremely interesting report (E/CN.4/Sub.2/1998/13). IADL noted that the Japanese authorities were yet again employing every possible means to avoid acknowledging their responsibility for, among other crimes, the abduction of 200,000 Korean girls and women during the occupation of Korea and forcing them to become "comfort women". Six million Koreans had been forced to engage in hard labour by the Japanese imperialists and 1 million innocent Koreans had been slaughtered. Far from honestly recognizing its crimes, Japan was endeavouring to obstruct the discussion of the subject within the United Nations and had even brought pressure to bear on Mrs. Coomaraswamy, Special Rapporteur of the Commission on Human Rights on violence against women, to refrain from mentioning "comfort women" in her report. Moreover, the issue was omitted from Japanese school textbooks and a notorious Japanese war criminal had even been portrayed in a film as a national hero.

62. Japan could not be allowed to consign its crimes to oblivion and to elude the responsibility in the matter of "comfort women" that the international community had already attributed to it six years previously. The Japanese Government should admit and apologize for its past crimes, in the interest of friendship among all peoples. IADL urged the Sub-Commission and its Working Group on Contemporary Forms of Slavery to take the appropriate steps with regard to the Japanese Government. He hoped that Mrs. McDougall's report would be approved.

63. Mrs. TANAKA (International Movement Against All Forms of Discrimination and Racism - IMADR) said that her organization had prepared a report for the Working Group on Contemporary Forms of Slavery on measures to eliminate the traffic in persons and the exploitation of the prostitution of others, which had been issued as document E/CN.4/Sub.2/1998/CRP.1, and looked forward to any comments on it.

64. It was clear that increasing numbers of women and children were being sexually exploited and, as such, were subject to discrimination on account either of their indigenous origin or their position as foreign migrants. Since the signature, almost 50 years previously, of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, the sex industry had become globalized. Its victims were not only exploited, but also experienced discrimination and racism to differing degrees, both in their countries of origin and in the countries of destination. Many Asian women and children were being trafficked to Japan and neighbouring countries as well as to Europe. Trafficking also existed from the Russian Federation and the countries of Eastern Europe to Western Europe, Japan and Thailand. The "commodities" sold by the world sex industry were women and children whose straitened circumstances made them easy prey for traffickers. While there were situations in some rich countries where the victims of that industry were treated as "workers" under contract and, as such, were protected by law, most had no rights and were obliged to sell their bodies for a long period in order to repay the "debt" by which they were bound. Many others were "slaves" in the strict sense, in that they received no remuneration whatsoever. While some victims were reduced to slavery by

force, others gave themselves up more or less freely to traffickers for financial reasons, but it could not really be said that they genuinely had a free choice.

65. The international community must react to the problem. She recommended that more extensive information might be obtained by coordinating the State reporting procedures outlined in the Convention on the Elimination of Discrimination against Women with those relating to the Convention on the Rights of the Chile, in collaboration with the Working Group on Contemporary Forms of Slavery. IMADR welcomed the fact that the Working Group had decided to examine, as a matter of priority, the issue of the international trafficking in women and girls for purposes of sexual exploitation at its next session in 1999, and that it planned to organize a seminar on the subject in conjunction with NGOs and members of the Working Group. The Sub-Commission should also urge the Commission on Human Rights to request the Special Rapporteur on violence against women to highlight that issue in her report for submission in the year 2000 and to include recommendations regarding specific measures to take account of the globalization of the sex industry. Lastly, she announced that the reference manual entitled Trafficking in Women in Asia: from Recognition to Response, which was designed for training public officials and private citizens, was available in English and would shortly be published in Japanese and in Thai.

The meeting rose at 1.05 p.m.